No. 26A_____

IN THE SUPREME COURT OF THE UNITED STATES

ESTHER NUHFER,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

On Application for Release Pending Appeal to the United States Court of Appeals for the Eleventh Circuit

APPLICATION FOR RELEASE PENDING APPEAL

Directed to the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit

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PARTIES TO THE PROCEEDING

Applicant Esther Nuhfer was a defendant in the district court and is the appellant in the court of appeals. Respondent is the United States of America. David Rivera was Applicant's co-defendant in the district court.

RELATED PROCEEDINGS

United States v. Rivera, No. 1:22-cr-20552-MD (S.D. Fla.) (judgment as to Applicant entered August 20, 2026).

United States v. Nuhfer, No. 26-13112 (11th Cir.) (appeal pending; order denying release pending appeal entered October 26, 2026).

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TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT:

Esther Nuhfer reported to federal prison on November 2**,** 2026. She is serving five years for failing to file a form.

The Foreign Agents Registration Act lets anyone advocate on behalf of a foreign principal. It asks that they first register with the Justice Department. Esther's convictions rest solely on the absence of that registration. Had the correct form been filed, every meeting, every call, and every payment the government put before the jury would have been lawful.

Her appeal asks whether the government waited too long to charge her. The only federal court of appeals to decide when the limitations period starts on a failure to register is the D.C. Circuit. In 1987, it held that the clock starts when the agent stops acting for the foreign principal. *United States v. McGoff*, 831 F.2d 1071, 1082 (D.C. Cir. 1987). In 2024, a unanimous panel applied that holding against the Justice Department, which had argued that the duty to register lasts until the agent files. *Att'y Gen. v. Wynn*, 104 F.4th 348 (D.C. Cir. 2024).

Esther asked the district court to instruct the jury on limitations under *McGoff*. The government told the district court not to follow *McGoff* and took the position that limitations "has not even begun to run," because she never registered. The district court agreed with the government and refused the instruction. No jury was ever asked whether the FARA charges were timely.

That is a substantial question. If the Eleventh Circuit follows the D.C. Circuit, Esther gets a new trial. If it does not, the circuits will be divided on when a federal crime becomes time-barred, and the question will come here. Either way, she will have served much of her sentence before any court decides whether she should have been tried on these charges at all.

Flight and danger are not seriously disputed. The district judge, after watching Esther through six weeks of trial, said at sentencing: "I'm convinced that Ms. Nuhfer does not present a risk of flight based on her behavior to date." She added: "I will say certainly she does not present a danger to the community." Sent. Tr. 105:2-5. Esther spent nearly four years on bond without a problem. During trial the government offered her probation. She turned it down to clear her name. She came to sentencing facing a Probation recommendation of 135 to 168 months. When the court imposed 60, she went home on a surrender date the government agreed to, and she reported to prison when told.

The district court denied release pending appeal because it had already rejected her arguments. It went so far as to say that Esther had "not raised any question of law or fact" at all. D.E. 669 at 5. The Eleventh Circuit denied release in a one-line order that gives no reasons. Neither court found that she would flee. Neither court explained why a question that two published appellate decisions resolved in her favor does not, at the very least, establish a debatable issue.

Esther respectfully asks the Circuit Justice to order her released pending appeal on the conditions she obeyed for four years, or on any additional conditions the Circuit Justice finds appropriate.

ORDERS BELOW

The order of the court of appeals denying release pending appeal (No. 26-13112, entered October 26, 2026) is unreported and appears at App. A. The district court's order denying release pending appeal (D.E. 669, Oct. 6, 2026) is unreported and appears at App. B. The judgment (D.E. 605) appears at App. C.

JURISDICTION

A judicial officer of a federal appellate court "shall order that, pending . . . appeal of conviction or sentence, a person be released or detained under this chapter." 18 U.S.C. § 3141(b). A "judicial officer" includes any person authorized under 18 U.S.C. § 3041 to "detain or release a person . . . pending appeal in a court of the United States." *Id.* § 3156(a)(1). Section 3041 reaches "any justice or judge of the United States." The Circuit Justice therefore has authority to grant release pending appeal under § 3143(b). *See Navarro v. United States*, 601 U.S. ___ (2024) (Roberts, C.J., in chambers) (deciding application for release pending appeal to the D.C. Circuit under § 3143(b)); *Truong Dinh Hung v. United States*, 439 U.S. 1326 (1978) (Brennan, J., in chambers); *Harris v. United States*, 404 U.S. 1232 (1971) (Douglas, J., in chambers). This application is submitted under Supreme Court Rule 22. Esther sought the same relief in the district court (D.E. 610, denied D.E. 669) and in the court of appeals (C.A. Doc. 15, denied October 26, 2026).

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 3143(b)(1) provides that a person found guilty and sentenced to imprisonment who has appealed shall be detained unless the judicial officer finds:

> (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
>
> (B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—(i) reversal, (ii) an order for a new trial, (iii) a sentence that does not include a term of imprisonment, or (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

22 U.S.C. § 618(e) provides:

> Failure to file any such registration statement or supplements thereto as is required by either section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

22 U.S.C. § 612(a) provides in part:

> The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal.

18 U.S.C. § 3282(a) provides a five-year limitations period for non-capital offenses.

STATEMENT

A. A rarely enforced registration statute.

FARA requires an "agent of a foreign principal" to register with the Attorney General. 22 U.S.C. § 612(a). It is a disclosure law. The D.C. Circuit has described its "core notion" as letting "government officials and the public generally" identify "those who act on behalf of a foreign principal." *McGoff*, 831 F.2d at 1074.

For most of its history the statute was enforced through civil remedies. The Justice Department's Inspector General found that between 1966 and 2015 the Department brought only seven criminal FARA cases. U.S. Dep't of Justice, Office of the Inspector General, *Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act*, Audit Div. 16-24, at i (Sept. 2016). On February 5, 2025, the Attorney General directed that criminal charges under FARA be "limited to instances of alleged conduct similar to more traditional espionage by foreign government actors." Memorandum from the Attorney General (Feb. 5, 2025). Although it had nothing to do with espionage, Esther's prosecution went forward anyway, and she went to trial in 2026.

Because criminal FARA cases are rare, appellate law on them is thin. The only appellate decisions on when the limitations period begins are the D.C. Circuit's decisions in *McGoff* and *Wynn*.

B. The prosecution.

A superseding indictment charged Esther and former Congressman David Rivera with FARA and money-laundering offenses arising from a consulting contract between Rivera's company and PDV USA, an American company. D.E. 122. The

government's theory was that the consulting work was really political activity for the Venezuelan government that required registration, and that the contract payments were criminal proceeds. C.A. Doc. 15 at 3–4. The initial indictment was returned November 16, 2022. C.A. Doc. 21 at 11.

Esther did not have a contract with PDV USA. She never went to Venezuela. She never met with or took instruction from a Venezuelan official, and she never lobbied a U.S. official. C.A. Doc. 15 at 4. The district judge described the case at sentencing as "really the David Rivera show," adding that Rivera "could have gotten someone else to play this very same role." Sent. Tr. 49:15–20. The court granted her a mitigating-role reduction over the government's objection and varied below the guidelines. C.A. Doc. 21 at 19.

The only direct evidence about registration cut in her favor. After consulting a lawyer, Rivera told Esther and Hugo Perera that the contract with PDV USA, an American company, did not require registration, though assigning it to a Venezuelan company would (which they did not do). Perera testified that he relied on that advice. The government did not charge him and let him keep his money. C.A. Doc. 15 at 16.

After a six-week trial, the jury convicted Esther of conspiracy to violate FARA, 18 U.S.C. § 371 (Count 1); failure to register, 22 U.S.C. §§ 612(a), 618(a)(1) (Count 2); money-laundering conspiracy, 18 U.S.C. § 1956(h) (Count 3); and a monetary transaction in criminally derived property, 18 U.S.C. § 1957 (Count 6). D.E. 605 at 1. The predicate for the laundering counts was the FARA offense. Sent. Tr. 98:5–10; D.E. 600 at 12.

C. The limitations defense.

Before and during trial, Esther argued that the FARA charges were time-barred under *McGoff* because any agency ended more than five years before the indictment. D.E. 543 at 6–13; D.E. 610 at 22–23. She asked for a jury instruction on limitations. The government's position was that § 618(e) is "unambiguous" and that limitations "has not even begun to run" because no registration was ever filed. D.E. 621 at 8. The district court "overruled Nuhfer's statute of limitations argument and proposed jury instruction." C.A. Doc. 21 at 11 (government's description). The jury was not instructed on limitations.

D. Sentencing and release.

Esther was released on bond on December 13, 2022. C.A. Doc. 15 at 6. For nearly four years she appeared whenever required. With the court's permission and the government's consent, she traveled out of state and on cruises outside the United States. She came back every time. *Id.*; D.E. 610 at 2–3, 7–8; D.E. 623 at 5.

During trial, the government offered her probation. She said no. D.E. 586 at 2. After the verdict, the court left her on release without objection from the government. D.E. 669 at 2. She appeared for sentencing knowing that Probation recommended 135 to 168 months. Sent. Tr. 6:9–17.

On August 18, 2026, the court imposed concurrent 60-month sentences on all four counts. Sent. Tr. 98:22–99:5; D.E. 605. Sixty months is the statutory maximum for the FARA counts. The court did not remand her. It explained that it was "convinced that Ms. Nuhfer does not present a risk of flight based on her behavior to

date," and said "certainly she does not present a danger to the community." Sent. Tr. 105:1–5. The court reserved a final flight finding for briefing on bail pending appeal, citing the sentence and the case's foreign subject matter. *Id.* 105:6–15. It allowed self-surrender without government objection and later granted an unopposed 31-day extension to November 2. D.E. 601; D.E. 662; D.E. 669 at 2.

E. The bail proceedings.

Esther moved for release pending appeal in the district court. D.E. 610. The government did not allege that she was dangerous. D.E. 669 at 4. The court's order "makes no findings regarding her potential flight risk," as the government later conceded. C.A. Doc. 21 at 8. It denied release on the substantial-question prong. The court said it "remains satisfied that Nuhfer has not raised any question of law or fact, let alone 'a substantial question of law or fact likely to result in [] reversal.'" D.E. 669 at 5. It reasoned that Esther had "not identified any issue that this Court has not already carefully considered in previous Orders." *Id.* at 6. It concluded: "Nuhfer has reasserted issues that she believes are likely to prevail on appeal. This Court disagrees." *Id.* at 7. The order does not mention *McGoff* or *Wynn*.

Esther then moved for release pending appeal in the Eleventh Circuit. C.A. Doc. 15. The government opposed. C.A. Doc. 21. It did not separately defend the refusal to instruct the jury. It argued instead that *McGoff* is a "flawed interpretation" adopted "over dissent," and that even under *McGoff* the evidence showed Esther acted as an agent "well into 2018." *Id.* at 11. Esther replied. C.A. Doc. 23. The Eleventh

Circuit denied the motion in a one-line order. App. 24-1. Esther surrendered on November 2, 2026.

REASONS FOR GRANTING THE APPLICATION

I. Esther Nuhfer easily meets the requirements for bail pending appeal.

Under § 3143(b), Esther must show by clear and convincing evidence that she is not likely to flee or endanger anyone, and that her appeal raises a substantial question likely to result in reversal or a new trial. In the Eleventh Circuit, a "substantial question" is "a 'close' question or one that very well could be decided the other way." *United States v. Giancola*, 754 F.2d 898, 901 (11th Cir. 1985). The defendant bears the burden. *Id.* The test does not ask the trial judge to predict her own reversal. Congress did not condition release "on the willingness of a trial judge to certify his or her own error." *Id.* at 900 (quoting *United States v. Miller*, 753 F.2d 19, 23 (3d Cir. 1985)).

A Circuit Justice gives the courts below "great deference." *Harris*, 404 U.S. at 1232. But "where the reasons for the action below clearly appear, a Circuit Justice has a non-delegable responsibility to make an independent determination of the merits of the application." *Id.* (quoting *Reynolds v. United States*, 80 S. Ct. 30, 32 (1959) (Douglas, J., in chambers)); *accord Mecom v. United States*, 434 U.S. 1340, 1341 (1977) (Powell, J., in chambers); *Truong Dinh Hung*, 439 U.S. at 1328. When Chief Justice Roberts denied release in *Navarro*, he did so because he saw "no basis to disagree with the determination" the D.C. Circuit had explained in a written order. 601 U.S. ___, slip op. at 1.

Here there is nothing comparable to defer to. The Eleventh Circuit gave no reasons. The district court's order makes no flight finding; its only words on the subject came from the bench at sentencing, and they favor Esther. On the merits, the district court did not engage *McGoff*, *Wynn*, or the refused instruction. It said Esther had not raised "any question of law or fact," because it had already rejected her arguments and still disagreed with them. D.E. 669 at 5–7. That is the reasoning *Giancola* rejects. *Mecom* shows what a Circuit Justice does when the courts below give no reasons: obtain the government's response and decide the question independently. 434 U.S. at 1341–42. And a question that the only appellate court to address it has twice resolved Esther's way is, at the least, a question.

The 1984 Act moved the burden to the defendant. *Giancola*, 754 F.2d at 901. *Harris* and *Truong Dinh Hung* were decided under the 1966 Act, which presumed release. Esther does not ask the Circuit Justice to apply the old presumption. She relies on those opinions for the method they share with *Navarro*: independent review of the record, and a close look at whether the facts show any inclination to flee.

II. Esther will not flee, and she is not a danger.

A. Danger.

Danger is not contested. The government "has not alleged that she presents a danger to the community." D.E. 669 at 4. The judge who presided over the trial said "certainly she does not present a danger to the community." Sent. Tr. 105:4–5. On specific deterrence, the judge said, "I don't think that's an issue." *Id.* 96:9–13. Esther

is 52 years old, has no criminal history, and was convicted of nonviolent offenses. C.A. Doc. 15 at 5.

B. Flight.

The government's flight argument in the Eleventh Circuit rested on a single fact: Esther now has a 60-month sentence. C.A. Doc. 21 at 7–8. Every person who seeks release under § 3143(b) has a prison sentence. The statute applies only to a person "sentenced to a term of imprisonment." 18 U.S.C. § 3143(b)(1). If the sentence alone defeated release, the statute would never permit it. The defendants in *Giancola* had concurrent five-year terms. 754 F.2d at 899 & n.2. The Eleventh Circuit vacated the order denying them bail. *Id.* at 901.

For nearly four years Esther did exactly what the court required. C.A. Doc. 15 at 6. With permission she left the country on cruises and came home every time. *Id.* The six-week trial ended in a guilty verdict, and she stayed. At sentencing, Probation was asking for 135 to 168 months. Sent. Tr. 6:9–17. The court imposed 60, sent her home, and she stayed again. When the surrender date came, she reported to prison.

The fact that Esther turned down probation is also significant. During trial the government offered her probation. D.E. 586 at 2. She refused so she could fight the charges. A woman who gave up an offer of probation to clear her name is not going to abandon the appeal that could achieve this goal.

Esther's whole life is in Miami. She has never lived outside Miami-Dade County. Her husband, her elderly parents, her three sisters, her nieces and nephews, her church, and her lifelong friends are there. C.A. Doc. 15 at 8; D.E. 610 at 3, 8–9.

Her parents depend on her for medical appointments, therapy, medications, and daily care. The district court recognized that she "is the caregiver of her parents." Sent. Tr. 96:3–7. Her first grandchild was born prematurely and was still in neonatal intensive care in September. *Id.* 64:8–14; D.E. 623 at 5. At sentencing, family, friends, and former colleagues filled the courtroom, and 31 letters described her character. The judge said the packed courtroom "speaks volumes." Sent. Tr. 95:1–3.

She has nowhere to go. Esther has never been to Venezuela. She has no connections, money, or property abroad. Her passport and her husband's passport are held by Probation. D.E. 610 at 3, 8; D.E. 623 at 5–6. Her remaining assets are in the United States and have been addressed with the government's forfeiture counsel; the proceeds of a court-approved property sale sit in counsel's trust account. D.E. 623 at 6.

Running would cost her the appeal, her family, and her parents' care. It would also expose her to a bail-jumping charge carrying up to five more years, served consecutively. 18 U.S.C. § 3146(b)(1)(A)(ii), (b)(2).

The trial judge saw all of this firsthand. "Ms. Nuhfer has, at all times, presented herself as the person that all of you know," she said. "When things got heated in this case, she never, ever, at least in front of me, stooped below anything other than the person that you all have known and represented her to be." Sent. Tr. 95:7–12.

Justice Brennan's opinion in *Truong Dinh Hung* frames the inquiry. The applicant there was a Vietnamese citizen convicted of espionage and of "acting as a

foreign agent without registration," and sentenced to 15 years. 439 U.S. at 1326. The court of appeals relied on his foreign contacts and lack of a permanent residence. Justice Brennan granted bail anyway: those considerations might "suggest opportunities for flight," but "they hardly establish any inclination on the part of applicant to flee." *Id.* at 1329. The applicant "faithfully complied with the terms of his pretrial bail and affirmed at sentencing his faith in his eventual vindication." *Id.* Esther has a third of his sentence, no foreign ties, and four years of compliance. In *Harris*, Justice Douglas granted bail to an applicant who had been at liberty after sentencing and "voluntarily submitted to the authorities" when required. 404 U.S. at 1236. Esther did the same thing.

The government's answer below was one sentence: her ties and claims of innocence "do not outweigh the potential of flight." C.A. Doc. 21 at 8. Potential is not evidence. The record shows by clear and convincing evidence that Esther is not likely to flee.

III. Whether the jury should have been instructed on limitations is a substantial question.

A. The only appellate authority holds that the limitations period starts when the agency ends.

FARA has no limitations provision of its own. Prosecutions are governed by the general five-year statute, 18 U.S.C. § 3282. *McGoff*, 831 F.2d at 1073–74. Section 618(e) makes a failure to file "as is required by" § 612(a) a "continuing offense for as long as such failure exists." The question is how long that is.

The government's answer is forever, or at least until the agent registers. On that view, a person who did registrable work for a foreign principal in 1990 and never filed could be prosecuted today. The D.C. Circuit rejected that reading in *McGoff*. It read § 618(e) as a cross-reference: the offense continues only while the defendant "is required by . . . section 612(a)" to file, and "[w]hen there is no obligation to file, there obviously can be no offense for failing to fulfill that obligation." 831 F.2d at [1078–79]. Looking to § 612(a), the court held that "the statutory obligation to file expires when the agent ceases activities on behalf of the foreign principal." *Id.* at 1082. The limitations period therefore runs from "the last day on which the foreign agent allegedly acted as such." *Id.* at 1071.

McGoff rested on settled principles this Court laid down. A continuing offense is the exception. This Court will find one only where "the explicit language of the substantive criminal statute compels such a conclusion, or the nature of the crime involved is such that Congress must assuredly have intended that it be treated as a continuing one." *Toussie v. United States*, 397 U.S. 112, 115 (1970). Criminal limitations statutes are "to be liberally interpreted in favor of repose." *Id.* (quoting *United States v. Habig*, 390 U.S. 222, 227 (1968)). *McGoff* found the statute at best ambiguous and held that the rule of lenity, which this Court has applied to "statutes of limitations," independently required the defendant's reading. 831 F.2d at 1095 (citing *Toussie*, 397 U.S. at 115).

The D.C. Circuit also weighed what the government's reading would mean. When *McGoff* was decided, Congress had eliminated a limitations period only once,

for capital crimes, and had done so expressly. 18 U.S.C. § 3281. The court doubted that Congress would do the same thing implicitly for a disclosure offense: "Premeditated murder is one thing; failure to disclose, even in an open, highly regulated society, is quite another." 831 F.2d at 1093.

Thirty-seven years later, the Justice Department asked the D.C. Circuit to impose a registration duty on a man whose alleged agency ended in October 2017. *Wynn*, 104 F.4th at 351. A unanimous panel said no. "Under *McGoff*, which binds this panel, the answer is plainly 'no.'" *Id.* at 352. The government's reading "would make Section 612(a)'s registration obligation perpetual, which is a proposition that *McGoff* explicitly rejected." *Id.* at 355. The court described whether the government may force someone to register after the agency ends as a "novel, important, and recurring question of federal law" that "touches on sensitive areas of national security and foreign policy." *Id.* at 353 (quotation omitted).

The government's response in the Eleventh Circuit called *McGoff* a "flawed interpretation" adopted "over dissent." C.A. Doc. 21 at 11. It did not say what was flawed. It did not address *Wynn*'s reaffirmation of *McGoff*, though it quoted *Wynn* for a different point. *Id.* at 20. It cited no court that has rejected *McGoff*. The Eleventh Circuit itself has cited *McGoff* for the basic rule that an offense is complete, and the limitations period starts, when its last element occurs. *United States v. Pacchioli*, 718 F.3d 1294, 1300 (11th Cir. 2013).

The government's best point is Judge Bork's dissent, which read the statute the government's way. 831 F.2d at 1097–1104 (Bork, J., dissenting). A question on

which one panel majority and one dissent disagree, and a later unanimous panel reaffirms the majority, is a close question. *Giancola*, 754 F.2d at 901.

B. If the Eleventh Circuit disagrees with *McGoff*, the circuits will be split.

The district court chose the dissent. If the Eleventh Circuit affirms on that basis, the same failure to register will be time-barred in Washington and prosecutable forever in Miami. That is a square conflict on the meaning of a federal criminal statute, the kind of conflict this Court grants certiorari to resolve. Sup. Ct. R. 10(a).

C. The refusal to instruct the jury was not harmless.

Once a defendant presses a limitations defense, "the Government then bears the burden of establishing compliance with the statute of limitations by presenting evidence that the crime was committed within the limitations period." *Musacchio v. United States*, 577 U.S. 237, 248 (2016). Esther pressed the defense as the government concedes. C.A. Doc. 21 at 11. Because the district court refused the instruction, the government never had to carry that burden before the jury.

The government's answer in the Eleventh Circuit was harmlessness. Even under *McGoff*, it said, Esther acted as an agent "well into 2018." C.A. Doc. 21 at 11. That is a jury argument, though, and it shows why the instruction was so important. The jury found only that Esther acted as an agent at some point during the charged period. It was never told that the date mattered, so it never had to decide whether any agency continued past November 16, 2017, five years before the indictment. And whether drafting a letter made Esther an agent acting "at the order, request, or under the direction or control" of Venezuela that spring, 22 U.S.C. § 611(c)(1), and whether

any agency had ended long before, were disputed facts. Esther's position at trial was that the registrable agency activity ended outside the five-year window. D.E. 543 at 6–13. Esther never met with or took instruction from any Venezuelan official. C.A. Doc. 15 at 4. The jury was never asked when, if ever, she stopped acting for Venezuela.

A reviewing court does not "become in effect a second jury." *Neder v. United States*, 527 U.S. 1, 19 (1999) (quotation omitted). Even when an element is omitted entirely, the error is not harmless "where the defendant contested the omitted element and raised evidence sufficient to support a contrary finding." *Id.* The same reasoning applies to a contested limitations defense on which the government bore the burden. The Eleventh Circuit's own cases show the difference. In *Pacchioli*, a district judge in the Southern District of Florida treated a disputed limitations question "as a factual issue for the jury" and instructed on it. 718 F.3d at 1299. The court of appeals affirmed because, under that instruction, "the jury necessarily must have found" the offense was timely. *Id.* at 1302. Here there is no such finding. The government asks an appellate court to make one.

The judgment lists December 1, 2018, as the date each offense "ended." D.E. 605 at 1. That date comes from the indictment. It reflects the government's theory that the offense never ended, or at least ran as long as the conspiracy alleged. An indictment's dates are allegations. No jury found when Esther's agency ended, because no jury was asked.

D. The issues reach every count.

Giancola requires that a favorable ruling be likely to produce reversal or a new trial on all counts carrying imprisonment. 754 F.2d at 900–01. Esther received four concurrent 60-month terms.

The limitations question reaches the two FARA counts directly. Count 2 is the failure to register itself. Count 1 is a conspiracy whose object was the same failure to register. The government will point to later acts by Rivera to extend the conspiracy. But the duration of an agreement not to register is bound up in the *McGoff* question. If the duty to register ended when the agency ended, continued non-registration after that date cannot keep the conspiracy alive. C.A. Doc. 15 at 14.

The laundering counts rest on the FARA offense as their predicate. Sent. Tr. 98:5–10. The district court described Count 6 as "predicated on her conviction under Count 2." D.E. 600 at 12. The government argued below that Count 6 survives even if the FARA violation was Rivera's "alone." C.A. Doc. 21 at 17. When the prosecution and the trial court disagree about what a conviction rests on, that alone is a close question.

The laundering counts are also subject to their own substantial questions, described in Part IV, and the severance issue would require a new trial on all four counts. C.A. Doc. 15 at 21–24.

IV. The appeal presents other substantial questions.

The limitations issue is easily a debatable issue for purposes of bail pending appeal, but it is not the only one. Each of the following was preserved and is described more fully in Esther's motion below. C.A. Doc. 15 at 15–23.

Willfulness (all counts). FARA's criminal provision requires a willful violation. 22 U.S.C. § 618(a)(1). Willfulness requires knowledge that the conduct was unlawful. *Bryan v. United States*, 524 U.S. 184, 191–92 (1998). The government presented no text, email, call, or meeting in which a Venezuelan official directed Esther's work. Former Venezuelan official Julio Borges testified, "I do not know Esther Nuhfer other than what I have read in the press." Then-Senator Marco Rubio testified that she was an honest and law-abiding friend who attended one meeting where Venezuela came up, said nothing, and did not lobby him. C.A. Doc. 15 at 15–16. The only direct evidence on registration was Rivera telling her, after consulting a lawyer, that the American-company contract did not require it. The government did not charge Perera, who heard the same advice and relied on it. *Id.* at 16. The same evidence bears on the laundering counts, which required proof that Esther knew the money was criminally derived. *Id.* at 17, 21.

Aiding and abetting (all counts). The jury was permitted to convict Esther of aiding and abetting Rivera's failure to register "even if she herself is not found to have acted as a foreign agent." D.E. 600 at 11 & n.1; *see* D.E. 458. Whether 18 U.S.C. § 2 extends a personal registration duty to someone who never had it is an open question. The government's only authority is a district-court decision. C.A. Doc. 21 at 16–17 (citing *United States v. Michel*, 2024 WL 1603362 (D.D.C. Apr. 12, 2024)). And

an aider and abettor must intend to facilitate the whole offense. *Rosemond v. United States*, 572 U.S. 65, 76–77 (2014). Here that offense is a willful failure to register. C.A. Doc. 15 at 17–18.

Criminally derived property (Counts 3 and 6). The predicate offense was the supposed omission of not filing the form. The money was paid under a consulting contract. What connection § 1957 requires between a failure to register and consulting fees is an unsettled question. *United States v. Christo*, 129 F.3d 578, 580 (11th Cir. 1997); C.A. Doc. 15 at 18–21.

Severance (all counts). For six weeks the jury heard evidence admissible only against Rivera: false deposition testimony, lies to the press, and evidence portraying him as racist. It also heard that Rivera told Gorrin registration was required (GX 445AT), while the only registration discussion involving Esther went the other way. C.A. Doc. 15 at 21–22. Whether limiting instructions could keep the jury from transferring Rivera's knowledge to Esther is a concrete appellate question, and a ruling in her favor means a new trial on every count.

V. Without release, the appeal cannot give Esther meaningful relief.

Esther's opening brief in the Eleventh Circuit has not yet been filed. Briefing, argument, and decision will take a substantial part of a 60-month sentence. If she wins a new trial after serving much of it, no remedy can return that time.

The government, by contrast, loses nothing. Esther has proven for four years that she will appear. A five-year sentence is the same five years whether it begins now or after the appeal. If she loses, she will serve it.

CONCLUSION

Esther Nuhfer complied with every condition of release for nearly four years and reported to prison when ordered. Her appeal asks a question that the only appellate court to decide it has answered her way twice. The Circuit Justice should order her released pending appeal on the conditions previously imposed by the district court, together with any additional conditions the Circuit Justice deems appropriate (including home confinement with location monitoring). In the alternative, Esther asks that the application be referred to the Court. Sup. Ct. R. 22.5.

Respectfully submitted,

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Counsel of Record

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Counsel for Applicant

November 9, 2026

APPENDIX

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In the

United States Court of Appeals

For the Eleventh Circuit

No. 26-13112

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ESTHER NUHFER,
DAVID RIVERA,

Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cr-20552-MD-2

ORDER:

Appellant Esther Nuhfer's motion for release pending appeal is DENIED.

/s/ Robin S. Rosenbaum
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CR-20552-DAMIAN

UNITED STATES OF AMERICA,

v.

ESTHER NUHFER, *et al.*,

Defendants.
_____/

ORDER ON DEFENDANT ESTHER NUHFER'S
MOTION FOR BOND PENDING APPEAL [ECF NO. 610]

THIS CAUSE is before the Court on Defendant Esther Nuhfer's Motion for Bond Pending Appeal, filed September 1, 2026. [ECF No. 610]

THE COURT has reviewed the Motion, the Government's Response [ECF No. 621], Nuhfer's Reply [ECF No. 623], the pertinent portions of the record, and relevant authority and is otherwise fully advised. For the reasons set forth below, the Motion is denied.

I. BACKGROUND

After a six-week trial, a federal jury convicted Defendant Esther Nuhfer ("Nuhfer") on all counts charged against her in the Superseding Indictment, including conspiracy to violate the Foreign Agents Registration Act, 18 U.S.C. § 951(a) ("FARA") (Count 1), violation of FARA (Count 2), conspiracy to commit money laundering (Count 3), and engaging in monetary transactions in criminally derived property (Count 6). [ECF No. 489].

The evidence at trial showed, generally, that Nuhfer and her co-defendant, David Rivera, sought to unlawfully enrich themselves by engaging in political activities in the United States on behalf of the government of Venezuela, by representing the interests of the

government of Venezuela before officials of the United States Government in an effort to influence United States foreign policy towards Venezuela and by concealing those efforts by failing to register under FARA as agents of the government of Venezuela. The evidence also showed that the Defendants created the false appearance that they were providing consulting services to the American entity, PDV USA. The evidence further showed that the Defendants were paid more than $20 million for their work on behalf of the Venezuelan government and that they used the proceeds from their work in violation of FARA to engage in financial transactions in violation of money laundering statutes.

At the conclusion of the trial, without objection from the Government, the Court permitted Nuhfer to remain out on bond pending her sentencing. And, following her sentencing on August 18, 2026, this Court, without objection from the Government, permitted Nuhfer to remain out on bond until October 2, 2026, at which time she was required to surrender to her designated institution. *See* ECF No. 601. And, on September 25, 2026, this Court granted Nuhfer's Unopposed Motion for a 31-day Extension of Time to Surrender. [ECF No. 662]. Therefore, she is required to surrender to her designated institution on or before November 2, 2026. *Id.*

Nuhfer filed a Notice of Appeal on September 1, 2026. [ECF No. 611].

In the Motion now before this Court, Nuhfer seeks to modify the remand order to permit her to remain out on bond pending the conclusion of her appeal. The Motion is fully briefed and ripe for adjudication.

II. LEGAL STANDARD

A. Release or Detention of a Defendant Pending Appeal.

Sections 3143(b)(1) and (2) require this Court to release a defendant on bond pending appeal if four conditions are met:

> (1) the defendant is not a flight risk or danger to the community;
> (2) the appeal is not for the purpose of delay; and
> (3) the appeal raises a substantial question of law or fact that
> (4) is likely to result in reversal or a more favorable sentence.

See 18 U.S.C. § 3143(b).[1] For purposes of this provision, a substantial question of law "is a 'close' question or one that very well could be decided the other way." *United States v. Giancola*, 754 F.2d 898, 901 (11th Cir. 1985). The Eleventh Circuit has held that the 1984 Bail Act was

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[1] The text of the statute states as follows:

(1) Except as provided in paragraph (2), the judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—
(A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
(B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—
(i) reversal,
(ii) an order for a new trial,
(iii) a sentence that does not include a term of imprisonment, or
(iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.
If the judicial officer makes such findings, such judicial officer shall order the release of the person in accordance with section 3142(b) or (c) of this title, except that in the circumstance described in subparagraph (B)(iv) of this paragraph, the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence.
(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.

18 U.S.C. § 3143(b).

enacted "so that the conviction is presumed correct and the burden is on the convicted defendant to overcome that presumption." *Id*. at 901 (citation omitted). The burden of establishing all factors within 18 U.S.C. § 3143(b) is on the convicted defendant. *Id*.

III. DISCUSSION

Nuhfer argues that she is not a danger to the community nor a flight risk if allowed to remain out on bond pending her appeal. *See* Mot. The Government has not alleged that she presents a danger to the community, so the analysis here focuses on the issue of flight risk.

Nuhfer points out that she was out on bond for nearly four years prior to her trial without significant issues and that she has continued to comply with her bond conditions even since the entry of the judgment against her and the imposition of her 60-month sentence. *See id*. at 7-8. She also avers that she has strong family ties in the community, including daughters, a grandchild with health issues, and elderly parents who also have health issues. *Id*. at 8-9. She contends that the international nature of the case does not point to any likelihood that she would leave her family, and nor does the 5-year sentence increase that risk. *Id*.

Nuhfer also asserts that her appeal presents substantial questions on issues regarding whether the evidence was sufficient to establish knowing and willful FARA violations, whether she could be convicted on aiding and abetting FARA violations if she herself was not an agent of a foreign principal, whether the funds at issue in the money laundering charges were criminally derived property, whether the evidence established an agreement to commit money laundering, whether she received a fair trial along-side her co-Defendant, David Rivera, whether the sentence imposed was reasonable, and whether the FARA charges were barred by the statute of limitations. *See* generally Mot.

The Government argues that Nuhfer has failed to establish by clear and convincing evidence that she is not a flight risk and that she fails to satisfy the element requiring the appeal raise a "substantial question of law or fact" as she merely asserts an intention to raise issues that have all been addressed by this Court in numerous detailed orders. *See* Resp.

This Court finds that the Motion must be denied as Nuhfer fails to meet her burden to establish all factors provided in 18 U.S.C. § 3143(b). *See United States v. Giancola*, 754 F.2d 898, 901 (11th Cir. 1985) ("[U]nder the 1984 [Bail] Act, the burden of establishing these factors is on the convicted defendant."). This Court has carefully and thoroughly considered each of the issues raised in the Motion and has entered Orders detailing findings, and, having reviewed the Motion now before the Court, this Court remains satisfied that Nuhfer has not raised any question of law or fact, let alone "a substantial question of law or fact likely to result in [] reversal" or a more favorable sentence. *See* 18 U.S.C. § 3143(b). A defendant's failure to "establish that her appeal raises 'substantial' questions of law or fact that are 'likely' to result in one of the enumerated remedies under 18 U.S.C. § 3143" warrants denial. *United States v. Agresti*, Case No. 18-CR-80124-RAR, 2022 WL 2966680, *4 (S.D. Fla. July 27, 2022) (Ruiz, J.); *see also United States v. Summers*, Case No. 3:20-cr-48-MMH-PDB, 2022 WL 580726, *1 (M.D. Fla. Feb 25, 2022) (finding denial of a motion for release on bond pending appeal is warranted as "[defendant] has failed to meet the substantial question requirement set forth in 18 U.S.C. § 3143(b)(1) and *Giancola*").

In *Agresti*, the defendant argued a then-recent decision by the Supreme Court of the United States, *Ruan v. United States*, 597 U.S. 450 (2022), created a substantial question of law or fact as to the theory of prosecution in his case. *Agresti*, 2022 WL 2966680, at *2. However, the district court determined that the "reasoning and analysis" in *Ruan* was distinguishable

from the government's theory at his trial after a review of the expert testimony and jury instructions in his case. *Id*. at *3. Based on its analysis of the holding in *Ruan*, the *Agresti* court determined that no question of fact or law existed and denied his motion seeking bond pending appeal pursuant to § 3143. *Id*.

Similarly in *Summers*, the defendant invoked § 3143(b)(1) when the Eleventh Circuit granted a rehearing *en banc* in a case "involving whether certain conspiracy offenses are 'controlled substance offense[s]' under U.S.S.G. § 4B1.2." *Summers*, 2022 WL 580726, at *2 n.4. The basis of the defendant's appeal was different, and the court denied the defendant's motion for release on bond pending appeal because "the possibility that the Eleventh Circuit's ruling may impact how sentencing guidelines are interpreted in a different context is insufficient to raise a substantial question of law as to the defendant." *Id*. (cleaned up).

Here, Nuhfer has not identified any issue that this Court has not already carefully considered in previous Orders, nor has she identified changes in the law or newly discovered information for consideration now that was not previously before this Court. Nuhfer, who is represented by very capable appellate counsel, has identified a plethora of issues for appeal, as she did during trial, but she has not come forward with any issue that persuades this Court that there is a substantial question of law or fact likely to result in reversal or a more favorable sentence pursuant to § 1343(b)(1)(B). The undersigned acknowledges that Nuhfer is not required to convince this Court that it "committed error" in order for this Court to recognize that an argument presents a substantial question. *See Giancola*, 754 F.2d at 901. As determined in *Giancola*, "a 'substantial question' is one of more substance than would be necessary to a finding that it was not frivolous. It is a 'close' question or one that very well could be decided the other way." 754 F.2d at 901.

Nuhfer has reasserted issues that she believes are likely to prevail on appeal. This Court disagrees. As such, Nuhfer fails to meet her burden with respect to the "substantial question" requirement set forth in 18 U.S.C. § 3143, and her motion must be denied. *See United States v. Smith*, No. 23-CR-20122, 2024 WL 4441809, at *3 (S.D. Fla. Oct. 8, 2024), *reconsideration denied*, No. 23-CR-20122, 2024 WL 4948944 (S.D. Fla. Dec. 2, 2024) (Bloom, J.) ("Defendant's failure to meet his burden with respect to the "substantial question" requirement set forth in 18 U.S.C. § 3143 is fatal to his Motion.").

III. CONCLUSION

Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant Esther Nuhfer's Motion for Bond Pending Appeal **[ECF No. 610]** is **DENIED**.

DONE AND ORDERED in Chambers in the Southern District of Florida, this 6th day of October, 2026.

MELISSA DAMIAN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

UNITED STATES OF AMERICA

v.

ESTHER NUHFER

JUDGMENT IN A CRIMINAL CASE

Case Number: **1:22-CR-20552-MD(2)**

USM Number: **35140-510**

Counsel for Defendant: **David Oscar Markus and Anita Margot Moss**

Counsel for United States: **Harold E. Schimkat and Roger Cruz**

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on Counts **1s, 2s, 3s, and 6s** after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	Offense Ended	Count
18 U.S.C. § 371 / Conspiracy to Commit Offense Against the United States	December 1, 2018	1s
22 U.S.C. § 612(a) and 618(a)(1) / Failure to Register as a Foreign Agent	December 1, 2018	2s
18 U.S.C. § 1956(h) / Conspiracy to Commit Money Laundering	December 1, 2018	3s
18 U.S.C. § 1957 / Engaging in Transactions in Criminally Derived Property	December 1, 2018	6s

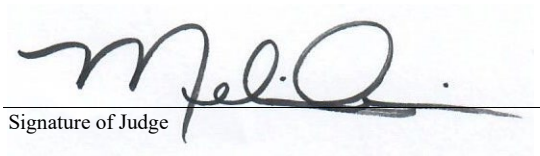
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

August 18, 2026
Date of Imposition of Judgment



Signature of Judge

MELISSA DAMIAN
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

August 19, 2026
Date

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **60 months,** consisting of 60 months as to each of counts 1s, 2s, 3s, and 6s, to run concurrently with each other.

☒ The court makes the following recommendations to the Bureau of Prisons:
(1) Designation at FPC Alderson in West Virginia or, if not possible there, then in a minimum security camp.

☐ The defendant is remanded to the custody of the United States Marshal.
☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 12 p.m. on October 2, 2026.
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **one (1) year,** consisting of one (1) year as to each of counts 1s, 2s, 3s, and 6s, to run concurrently with each other.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)
7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

SPECIAL CONDITIONS OF SUPERVISION

Financial Disclosure Requirement: The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

Unpaid Restitution, Fines, or Special Assessments: If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$400.00	0	0		

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

☐ Restitution amount ordered pursuant to plea agreement $

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **$.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of $25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.
** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ESTHER NUHFER
CASE NUMBER: 1:22-CR-20552-MD(2)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payments of $400.00 due immediately.

It is ordered that the Defendant shall pay to the United States a special assessment of $400.00 for Counts 1s, 2s, 3s and 6s , which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.